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Johnnie Lupton  
CivPers

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**

**FILE: B-191118**

**DATE: April 19, 1978**

**MATTER OF: Zelda Byer - Retroactive Promotion as a  
Result of Illegal Detail**

**DIGEST:** Employee of Agency for International Development alleges she was detailed to higher grade position from April 1967 to December 1968. Employee's claim is barred by the statute of limitations applicable to this Office, 31 U.S.C. § 71a, which precludes consideration of a claim not received in this Office within 6 years after the date such claim first accrued. Thus we have no authority to consider such claim.

This action involves a request from the Honorable John J. Gilligan, Administrator, Agency for International Development (AID) for an advance decision on the claim of Ms. Zelda M. Byer, an AID employee, for a retroactive temporary promotion as a result of an alleged illegal detail to a higher grade position.

Ms. Byer's claim is a part of a larger Equal Employment Opportunity complaint based on sex and age that alleges certain discriminatory actions by AID officials. The Administrator of AID has requested us to rule on the alleged illegal detail claim prior to his agency acting on the discrimination complaint.

Ms. Byer alleges that while she was a grade GS-525-9 accountant technician she was detailed to a grade GS-510 accountant position in April 1967. She claims to have served on this detail until December 1968. It is not clear from the record before us whether the GS-510 accountant position to which she claims she was detailed, was a higher grade position. However, this fact is not essential to the outcome of this case.

Pursuant to 31 U.S.C. § 71a, governing time limitations on claims and demands, we have no authority to consider a claim that is not received in this Office within 6 years after the date such claim first accrued. Statutes of limitation such as the one referred to above are based on the theory that, even if one has a just cause, it is unjust not to put the adversary on notice to defend within the period of limitation and that the right to be free of stale claims

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if time comes to prevail over the right to prosecute them. Twitchco, Inc. v. United States, 348 F. Supp. 330 (1972). Further, when statutes of limitations are fixed by Congress, they may not be lengthened by estoppel or waiver by agents of the United States. Kindrew v. United States, 352 F. Supp. 277 (1972). Accordingly, we are barred by 31 U.S.C. § 71a from considering Ms. Byer's claim of an alleged illegal detail in 1967 and 1968.

Since Ms. Byer's claim is barred by our statute of limitations, she is not entitled to the remedy she seeks.

Deputy

*R. F. K. 11/14*  
Comptroller General  
of the United States